

AMENDED IN ASSEMBLY FEBRUARY 18, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 13

Introduced by Assembly Member Harman

December 2, 2002

An act to add *and repeal* Section 118.7 ~~to~~ of the Streets and Highways Code, relating to the Department of Transportation.

LEGISLATIVE COUNSEL'S DIGEST

AB 13, as amended, Harman. Department of Transportation: transfer of property.

Existing law provides that the Department of Transportation (hereafter Caltrans) has full possession and control of all state highways and all property and rights on property acquired for state highway purposes. Various provisions of existing law specifically provide for the acquisition, transfer, and use of Caltrans property.

This bill would authorize Caltrans, *until January 1, 2008*, to transfer *environmental mitigation* property that is not part of the highway right-of-way to a ~~nonprofit organization incorporated under the Nonprofit Corporation Law, subject to existing obligations regarding the property. The bill would authorize Caltrans to create an endowment in order to provide for maintenance of the transferred property~~ *public agency or to a nonprofit corporation that is organized for open space or land conservation purposes. The bill would authorize Caltrans to enter into a cooperative agreement with a public agency or nonprofit corporation that is transferred environmental mitigation property in order to provide funding for future maintenance of the property. The bill would require a public agency or nonprofit corporation that is*

transferred environmental mitigation property to be responsible for the future maintenance of the property.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 118.7 is added to the Streets and
2 Highways Code, to read:

3 118.7. (a) Notwithstanding any other provision of law,
4 ~~subject to existing obligations,~~ the department may, *upon terms,*
5 *standards, and conditions approved by the commission,* transfer
6 ~~property that is not part of the highway right-of-way to a nonprofit~~
7 ~~organization incorporated under the Nonprofit Corporation Law~~
8 ~~(Division 2 (commencing with Section 5000) of Title 1 of the~~
9 ~~Corporations Code).~~

10 ~~(b) If the department transfers property to a nonprofit~~
11 ~~organization pursuant to subdivision (a), the department may~~
12 ~~provide for establishment of an endowment that will enable the~~
13 ~~nonprofit organization to provide for the maintenance of the~~
14 ~~transferred property.~~

15 ~~(c) For purposes of this section, “endowment” means a fund~~
16 ~~established pursuant to terms that stipulate that the fund principal~~
17 ~~remains inviolate and that only the income may be expended for~~
18 ~~the purpose of maintaining or improving the property that is the~~
19 ~~subject of the endowment.~~ *environmental mitigation property to*
20 *a public agency or to a nonprofit corporation that is qualified*
21 *pursuant to Section 501(c)(3) of the Internal Revenue Code and is*
22 *organized for, among other things, open space or land*
23 *conservation purposes.*

24 *(b) For the purposes of this section, “environmental mitigation*
25 *property,” means property owned by the department that is*
26 *required by state or federal law, or by permit conditions imposed*
27 *by a state or federal agency, to be preserved or restored as natural*
28 *habitat to offset the environmental impacts caused by the*
29 *construction and operation of a state highway improvement*
30 *project. However, “environmental mitigation property” does not*
31 *include property that is part of highway operating right of way.*
32 *Environmental mitigation property shall be maintained as natural*
33 *habitat in accordance with the permit conditions.*

1 (c) As a condition to the transfer of environmental mitigation
2 property pursuant to subdivision (a), the department may enter
3 into a cooperative agreement with the transferee to provide
4 funding for the future maintenance of the property consistent with
5 any mitigation performance goals imposed by state or federal law
6 or conditions imposed by a state or federal agency. In determining
7 the amount of the funding provided, the department shall consider
8 the costs of maintaining the property and shall offset from the
9 amount of those costs any benefit or value received by the
10 transferee as a result of the transfer.

11 (d) The public agency or nonprofit corporation to which the
12 department transfers the environmental mitigation property shall
13 assume the long-term responsibility for the future maintenance of
14 the property. If the public agency or nonprofit corporation fails to
15 maintain the property in the manner required by law and in the
16 manner described in subdivision (b), or if the nonprofit
17 corporation ceases to exist, the property shall automatically revert
18 to the department.

19 (e) All deeds conveying property in accordance with this
20 section shall include a restriction limiting the use of the property
21 solely for environmental mitigation purposes in accordance with
22 the permit conditions specified in subdivision (b).

23 (f) This section shall remain in effect only until January 1,
24 2008, and as of that date is repealed, unless a later enacted statute,
25 that is enacted before January 1, 2008, deletes or extends that date.

